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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/911,256

07/23/2001

Patrick J. McLampy

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EXAMINER

CHO, HONG SOL

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/911,256	Applicant(s) MELAMPY ET AL.	
	Examiner Hong Cho	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 41,43,45,47,48,50,52,54,55,57,59 and 61-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41,43,45,47,48,50,52,54,55,57,59 and 61-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to the amendment filed on 7/5/2006. Claims 1-40, 42, 44, 46, 49, 51, 53, 56, 58, and 60 were canceled. Claims 41, 43, 45, 47, 48, 50, 52, 54, 55, 57, 59, and 61-64 are pending in the instant application.

### ***Claim Objections***

2. New added claims 61-63 are objected to because of the following informalities:

Re claims 61-63, these claims should be renumbered to 62-64, respectively.

For the purpose of the examination, newly added claims 61-63 are renumbered to 62-64, respectively.

### ***Claim Rejections - 35 USC § 112, First paragraph***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 45, 52, 59 and 62-64 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re claims 45, 52, and 59, it recites, “determining the round-trip time based upon the LSR timestamp, the DLSR, and the first timestamp”. The original specification fails to describe the above claim limitation.

Re claims 62-64, it recites, “subtracting both the LSR timestamp and the DLSR from the first timestamp to determine the round-trip delay”. The original specification fails to describe the above claim limitation.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 41, 43, 48, 50, 55 and 57 are rejected under 35 U.S.C. 102(e) as being anticipated by Grabelsky et al (U.S 6678250), hereinafter referred to as Grabelsky.

Re claims 41, 48, and 55, Grabelsky discloses measuring delay for a real time transport protocol (RTP) between edge devices (figure 1, elements 20-23, *between a first and second endpoint*) through IP network (*determining latency for RTP data flow between a first endpoint and a second endpoint*, figure 1; column 2, lines 27-38).

Grabelsky discloses a edge device transmitting and receiving reports through an Internet Protocol (IP) network where router are inherently existed to route IP packets (*RTP data flow transiting through a media router*, column 4, lines 12-17). Grabelsky discloses a source gateway directing the RTP packets onto the IP network that transports the RTP packets to the destination gateway, receiving sender reports or receiver reports from each other session members periodically (*intercepting a first RTCP sender report from the first endpoint and a first RTCP receiver report from the second endpoint, each first report transiting through the media router, intercepting a second RTCP sender report from the second endpoint and a second RTCP receiver report from the first endpoint*, column 6, lines 6-17). Grabelsky discloses measuring a round-trip delay between edge devices by adjusting transmission interval between successive RTCP packets (*determining a round-trip delay between the first endpoint and the second endpoint based on a plurality of interception times, each interception time corresponding to the time of intercepting one of the RTCP reports*, column 8, lines 7-23; column 9, lines 61-65).

Re claims 43, 50, and 57, Grabelsky discloses a source gateway (*the first endpoint*, figure 1, element 20) directing the RTP packets (*the first RTCP sender report*) onto the IP network (figure 1, element 30, *through the media router*) that transports the RTP packets to the destination gateway (*the second endpoint*, figure 1, element 23) (*receiving, in the media router, the first RTCP sender report, the first sender report originating from the first endpoint and destined for the second endpoint and transiting through the media router, and transmitting the first RTCP sender report to the second endpoint*, column 4, lines 60-66).

Re claim 55, Grabelsky inherently discloses a transceiver, memory, and a processor for necessarily enabling an edge device to receive and transmit reports and compute network statistics.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
8. Claims 47, 54, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grabelsky.

Re claims 47, 54, and 61, Grabelsky discloses all of the limitations of the base claim, but fails to disclose measuring a one-way latency between the first endpoint and the second endpoint by dividing the round-trip delay in half. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Grabelsky to determine one-way latency by dividing the round trip delay in half since Grabelsky suggests utilizing other network performance parameters (column 13, lines 4-16). The motivation is to achieve an overall view of network performance by getting snapshot of the packet delivery performance between a pair of host devices.

*Allowable Subject Matter*

9. Claims 45, 52, 59 and 62-64 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

10. Applicant's arguments with respect to claims 41, 48 and 55 have been considered but are not persuasive.

On the remarks, pages 9-10, Applicants argue that Grabelsky discloses determining a round-trip delay between endpoints not in the media router (figure 2, element 137) but in either the source gateway or the destination gateway.

In reply, the Examiner believes that a round-trip delay is measured not in the media router (figure 2, element 137) but endpoint media router (figure 1, element 118). The specification describes that the media router (figure 1, element 118) is an endpoint (claim 2 dated 7/23/2001) and it is the endpoint media router that measures round-trip delay (specification, page 13, lines 7-13). It can't be a media router (figure 2, element 137) that measures round-trip delay as argued by Applicants. Since the Examiner equates the media router with either the source gateway or the destination gateway where a round-trip delay is measured, the Examiner believes the rejection of claims is proper.

*Conclusion*

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Cho whose telephone number is 571-272-3087. The examiner can normally be reached on Mon-Fri during 7 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hc

Hong Cho  
Patent Examiner  
8/3/2006



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